IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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W.P.Nos. 16958; 16959 & 16781 of 2004

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WRIT PETITION NO : 16958 of 2004

Between:

Inder Raj Agarwal S/o.Gulraj Agarwal
R/o.Reddipalli Narsapur Mandal, Medak District.

..... PETITIONER

AND

1 The Assistant Cane Commissioner Sanga Reddy, Medak District.
2 The Government of Andhra Pradesh Rep. by its Secretary, Department of Industries and Commerce, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring Notice/Order of Respondent No.1 issued in No.C/462/2004, dt.28.7.2004, is illegal, arbitrary and against principles of natural justice and consequently direct the respondent No.1 to issue license to the petitioner for manufacturing of Jaggery at Reddipalli of Narsapur Mandal, Medak District, by using his own sugar cane, non-contracted cane in Zone area and also cane grown beyond 15 Kms from M/s Ganapati Sugar India Ltd., Fasalvadi, Sanga Reddy, Medak District.

Counsel for the Petitioner: MR.Y.ASHOK RAJ

Counsel for the Respondent No.: GP FOR INDUSTRIES & COMMERCE

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WRIT PETITION NO : 16959 of 2004

Between:

Vikas Agarwal S/o. Inder Raj Agarwal
R/o. Hanumanthapura Narsapur Mandal, Medak District.

..... PETITIONER

AND

1 The Assistant Cane Commissioner Sanga Reddy, Medak District.
2 The Government of Andhra Pradesh Rep. by its Secretary, Department of Industries and Commerce, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring Notice/Order of Respondent No.1 issued in No.C/463/2004, dt.28.7.2004, is illegal, arbitrary and against principles of natural justice and consequently direct the respondent No.1 to issue license to the petitioner for manufacturing of Jaggery at Hanumanthapur of Narsapur Mandal, Medak District, by using his own sugar cane, non-contracted cane in Zone area and also cane grown beyond 15 Kms from M/s Ganapati Sugar India Ltd., Fasalvadi, Sanga Reddy, Medak District

Counsel for the Petitioner: MR.R.N.HEMENDRANATH REDDY

Counsel for the Respondent No.: GP FOR INDUSTRIES & COMMERCE

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WRIT PETITION NO : 16781 of 2004

Between:

Kamal Agarwal, S/o. Inder Raj Agarwal,
R/o. Edullapur, Shivampet Mandal, Medak District.

..... PETITIONER

AND

1 The Assistant Cane Commissioner, Sanga Reddy, Medak District.
2 The Government of Andhra Pradesh, Rep by its Secretary, Department of Industries & Commerce, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring Notice/Order of Respondent No. 1 issued in No. C/464/2004, dt. 28-7-2004 is illegal, arbitrary and against principles of natural justice and consequently direct the respondent No. 1 to issue license to the petitioner for manufacturing of Jaggery by using his own sugar cane, non-contracted cane in Zone area and also cane grown beyond 14 Kms from M/s. Ganapati Sugar India Ltd. Fasalvadi, Sanga Reddy District and to pass

Counsel for the Petitioner: MR.R.N.HEMENDRANATH REDDY

Counsel for the Respondent No.: GP FOR INDUSTRIES & COMMERCE

The Court made the following

COMMON ORDER:

Heard the counsel for the petitioners and also learned Government Pleader for Commerce & Industries appeared on behalf of the respondents.

Since a common question arose in these matters, at the request of the counsel on either side, all these matters are taken up together for disposal.

Aggrieved against the impugned order of the first respondent in his proceedings No.C/462/2004, C/463/2004 & C/464/2004, dated 28-7-2004 respectively, the present writ petitions are filed to declare the same as illegal and arbitrary and to direct the first respondent to issue licence to them for manufacturing of Jaggery by using their own sugar cane, non-contracted cane in Zone area.

It is the case of the petitioners that the applications filed by them for grant of Jaggery manufacturing licence for installation of Jaggery Unit for the season 2004-2005 was rejected by the respondents. The further case of the petitioners is that even though their cases do not fall within the Zone Area of M/s. Ganapati Sugar India Limited, and ignoring the decision of the Government of India issued in press Note No.12 dated 31-8-1998, the authorities have rejected the same on totally erroneous grounds.

As seen from the impugned order, it is noticed that the same is preceded by a show cause notice dated 24-7-2004, where under the petitioners were called upon to explain as to why their applications shall not be rejected as per the G.O.Ms.No.95, Ind.&Comm, Dept., dated 17.2.1977 and under A.P. Jaggery(Gur)Manifacturers Licensing Order 1975. However, the petitioners did not submit their explanations for the said show cause notice.

Having considered the submissions made and on perusal of the material, it is seen that from both sides several aspects have sought to be brought forward for the first time in this court without submitting the same before the authorities who issued the impugned orders. Admittedly, the petitioners did not file any such material, which is now sought to contend in this court. However, this Court by exercising its powers under Article 226 of the Constitution of India cannot go into all such aspects. It would suffice in the interest of justice that if an opportunity is given to the petitioners to substantiate their claim on all aspects before the authorities concerned and which can be considered on proper perspective and they can pass an appropriate orders.

Having regard to the above, these writ petitions are allowed and the impugned orders dt.28-7-04 are set aside. The petitioners are permitted to approach the first respondent with all the material, explanation on all other aspects on which they want to place reliance. On such submission, the same shall be considered and appropriate orders can be passed on merits by the respondents after hearing the petitioners. The entire exercise shall be completed within a period of two weeks.

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B. PRAKASH RAO, J

Dt.28-10-2004

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the

twenty eighth day of October Two thousand and four.

To

1 The Assistant Cane Commissioner Sanga Reddy, Medak District.
2 The Secretary, Department of Industries and Commerce,

Government of Andhra Pradesh, Secretariat Buildings, Hyderabad.

3. Two CCs to GP for Industries & Commerce, High Court Buildings, Hyd.(OUT)

4. Two CD copies.

Note:

Furnish CC by tomorrow.

B/o. Kvrk

HON'BLE SRI JUSTICE B. PRAKASH RAO

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W.P.NOS. 16958; 16959 & 16781 of 2004

(Common Order)

28th OCTOBER 2004

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